

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 BILLY JOE BISHOP,

10 Petitioner,

11 v.

12 JEFFREY A. UTTECHT,

13 Respondent.

CASE NO. 3:19-CV-05554-RBL-
JRC

ORDER SUBSTITUTING
RESPONDENT AND ORDER
DIRECTING SERVICE AND
RETURN, § 2254 PETITION

14 The District Court has referred this petition for a writ of habeas corpus to United States
15 Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §
16 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

17 Petitioner Seth Rowe filed a petition for writ of habeas corpus naming the State of
18 Washington as the respondent. Dkt.7. The proper respondent to a habeas petition is the "person
19 who has custody over [the petitioner]." 28 U.S.C. § 2242; see also § 2243; *Brittingham v. United*
20 *States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).
21 According to the petition, petitioner is currently housed at Coyote Ridge Corrections Center
22
23

1 (“CRCC”). The Superintendent of CRCC is Jeffrey A. Uttecht. Accordingly, the Clerk of Court
2 is directed to substitute Jeffrey A. Uttecht as the respondent in this action.

3 Further, petitioner is subject to the Court’s Mandatory Electronic E-Filing Pilot Project
4 pursuant to General Order 06-16. The Court, having reviewed petitioner’s federal habeas
5 petition, hereby finds and **ORDERS** as follows

6 (1) The Clerk shall arrange for service by e-mail upon respondent and upon the
7 Attorney General of the State of Washington, of copies of the petition, of all documents in
8 support thereof, and of this Order. The Clerk shall also direct a copy of this Order and of the
9 Court’s *pro se* instruction sheet to petitioner.

10 (2) Within ***forty-five (45) days*** after such service, respondent(s) shall file and serve an
11 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
12 District Courts. As part of such answer, respondent(s) shall state whether petitioner has
13 exhausted available state remedies and whether an evidentiary hearing is necessary.
14 Respondent(s) shall not file a dispositive motion in place of an answer without first showing
15 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of
16 the Court and serve a copy of the answer on petitioner.

17 (3) The answer will be treated in accordance with LCR 7. Accordingly, on the face
18 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.
19 Petitioner may file and serve a response not later than the Monday immediately preceding the
20 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply
21 not later than the Friday designated for consideration of the matter.

1 (4) Filing by Parties, Generally

2 All attorneys admitted to practice before this Court are required to file documents
3 electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically.
4 All filings must indicate in the upper right hand corner the name of the magistrate judge to whom
5 the document is directed.

6 Any document filed with the Court must be accompanied by proof that it has been served
7 upon all parties that have entered a notice of appearance in the underlying matter. Petitioner
8 shall indicate the date the document is submitted for e-filing as the date of service.

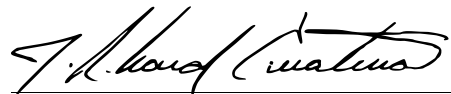
9 (5) Motions

10 Any request for court action shall be set forth in a motion, properly filed and served.
11 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
12 part of the motion itself and not in a separate document. The motion shall include in its caption
13 (immediately below the title of the motion) a designation of the date the motion is to be noted for
14 consideration on the Court's motion calendar.

15 (6) Direct Communications with District Judge or Magistrate Judge

16 No direct communication is to take place with the District Judge or Magistrate Judge with
17 regard to this case. All relevant information and papers are to be directed to the Clerk.

18 Dated this 15th day of July, 2019.

19
20 

21 J. Richard Creatura
22 United States Magistrate Judge
23